

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

COREY SPENCER, on behalf of
[D.S.], a minor,

Plaintiff,

v.

GULL LAKE COMMUNITY SCHOOLS,

Defendant.

Case No. _____

Hon. _____

Kalamazoo Co. Circuit Court

No. 21-0502-CZ

Hon. Alexander C. Lipsey

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**DEFENDANT GULL LAKE COMMUNITY SCHOOLS’
NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. § 1441(a) and § 1446(b)**

PLEASE TAKE NOTICE that Defendant GULL LAKE COMMUNITY SCHOOLS, by and through its counsel, hereby removes the matter entitled *Corey Spencer[,]* *on behalf of his minor child [D.S.]*,¹ Case No. 21-0502-CZ, currently pending in **Kalamazoo County Circuit Court (Michigan)**, to the United States District Court for the Western District of Michigan. The

¹ The Plaintiff’s state court complaint, filed *pro se* by the Plaintiff, specifically identified the minor Plaintiff by complete name. Pursuant to Fed. R. Civ. P. 5.2(a)(3), Gull Lake uses only the minor’s initials. Gull Lake has also redacted the minor’s name in the Exhibits for this Notice.

bases for removal are set forth below:

STATEMENT OF GROUNDS FOR REMOVAL

1. On or about November 16, 2021, this action was commenced in the Kalamazoo County Circuit Court.

2. Defendant Gull Lake Community Schools (“Gull Lake”) was served with the Summons and Complaint via personal service on or about November 17, 2021.

3. A copy of the Summons and Complaint for Declaratory and Injunctive, the Plaintiff’s Emergency Motion for Temporary Restraining Order, and the Kalamazoo County Circuit Court’s denial of that motion, which constitute all process and pleadings received by Gull Lake, are attached as composite **Exhibit 1 - 3**. No other pleadings have been filed in the state court.

4. The required Civil Cover Sheet is attached as Exhibit 4.

5. This notice of removal is being filed within 30 days after receiving notice of the complaint by service or otherwise as required by 28 U.S.C. § 1446(b).

6. This Court has jurisdiction over this case based federal question jurisdiction pursuant to 28 U.S.C. § 1441(a) and 28 U.S.C. § 1331.

PLAINTIFF’S FEDERAL CLAIMS

7. As a general matter, the Plaintiff alleges that Gull Lake violated the Michigan Revised School Code (**Count I**) and infringed upon his minor child’s constitutional rights under the Fourteenth Amendment of the U.S. Constitution (**Count II**).

8. Specifically, the Plaintiff challenges Gull Lake’s authority under the Fourteenth Amendment to temporarily exclude the minor Plaintiff for health and safety reasons based on the child’s close contact with a COVID-19 positive student. The Plaintiff alleges that this temporary exclusion violates the procedural protections of the Due Process Clause of the Fourteenth

Amendment. (Compl., ¶¶ 21, 25.)

9. No other defendants are named thus consent for this removal under 28 U.S.C. § 1446(b)(2)(A) is not required.

10. The prerequisites for removal to this Court have been satisfied to the extent required under 28 U.S.C. §§ 1441(a) and 1446(a) – (b).

11. Written notice of the filing of this notice of removal will be given to the Plaintiff as required by law.

12. The allegations of this notice are true and correct and this cause is within the jurisdiction of the United States District Court for the Western District of Michigan.

Defendant Gull Lake Community Schools files this notice of removal and removes this state court civil action to the United States District Court for the Western District of Michigan. Plaintiff is notified to proceed no further in state court unless or until the case should be remanded by order of said United States District Court.

Respectfully submitted,

GIARMARCO, MULLINS & HORTON,P.C.

/s/ Travis Comstock

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Dated: December 3, 2021